

**STATEMENT**  
**OF**  
***THE ALLIANCE OF AUTOMOBILE MANUFACTURERS***

**BEFORE THE:**  
**SUBCOMMITTEE**  
**ON**  
**COMMERCE, TRADE AND CONSUMER PROTECTION**

**NOVEMBER 10, 2005**

**PRESENTED BY:**  
  
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Thank you for the opportunity to testify before the Commerce, Trade and Consumer Protection Subcommittee regarding H.R. 2048 the “Motor Vehicle Owners’ Right to Repair Act of 2005” and the Council of Better Business Bureau’s facilitated discussions on this issue. I represent the Alliance of Automobile Manufacturers, (Alliance) a trade association of 9 car and light-truck manufacturers. Our member companies include BMW Group, DaimlerChrysler Corporation, Ford Motor Company, General Motors Corporation, Mazda, Mitsubishi, Porsche, Toyota Motor North America and Volkswagen of America.

Alliance member companies have more than 600,000 employees in the United States, with more than 230 manufacturing facilities in 35 states. Overall, a University of Michigan study found that the entire automobile industry creates more than 6.6 million direct and spin-off jobs in all 50 states and produces almost \$243 billion in payroll compensation annually.

Historically, about 75 percent of vehicle service and repairs are performed in non-dealer shops. Automakers view these non-dealer shops as important players in providing service to their mutual customers, the driving public. Just as motor vehicles have become more complex, the servicing of them has also become a high technology business requiring skilled, trained technicians and a sizeable investment in diagnostic and repair equipment. For independent repairers to be successful, they need to have access to up-to-date training information and specialized tools as well as service and repair information. Today, all major automakers have websites where independent technicians can access service information.

Almost 500 million non-warranty service events are undertaken each year. While we hope that each and every one of these events is as easy to facilitate as possible, we recognize that with literally millions of pages of service and repair information that need to be available, there will be instances where needed information is unavailable. The automakers try to correct these situations as quickly as possible. There are situations, however, where access to some desired information might not actually be reasonable or appropriate – such as the immobilizers that are part of theft deterrent/security systems.

To address these various situations, in the year 2000, the National Automobile Service Task Force (NASTF) was created as a not-for-profit, no-dues task force to facilitate the identification and correction of gaps in the availability and accessibility of automotive service information, service training, diagnostic tools and equipment, and communications for the benefit of automotive service professionals. NASTF is a voluntary, cooperative partnership between automakers, the independent aftermarket repair community, the automotive equipment and tool industry, automotive trainers, locksmiths, suppliers, the insurance industry, law enforcement, auto dealers and others. The NASTF inquiry process, which has been highly publicized for several years in major trade publications like *Motor* and *Motor Age Magazines*, has received fewer than 50 inquiries in the past year about lack of, or difficulty in, finding information. The NASTF complaint process is well established at this point, readily accessible on the public internet (at [www.nastf.org](http://www.nastf.org)) and every complaint and its respective solution is transparent on the International Automotive Technicians Network, a well-recognized Internet forum of over 48,000 professional independent and dealership automobile repair technicians.

Working together, the volunteers at NASTF have implemented web based links to every automakers service information website with contact information. NASTF has succeeded in improving communications between automaker engineering groups and the Equipment & Tool Institute to ensure that scan tool information is readily available to aftermarket tool manufacturers. NASTF has reached out to the locksmith community and the National Insurance Crime Bureau and established the NASTF Vehicle Security Committee to address the controversial and highly complex issues surrounding methods to provide information to automotive security professionals without compromising vehicle security and customer safety.

Since its inception, automakers and the Automotive Service Association (ASA), the nation's largest association of independent repair shops and technicians have invited all other interested parties to participate in the NASTF voluntary process.

### **Council of Better Business Bureaus, Inc. Facilitated Discussions**

At the urging of Senator Graham and Energy and Commerce Committee Chairman Barton, representatives of the Alliance, the Association of International Automobile Manufacturers (AIAM), the ASA and the National Automobile Dealers Association (NADA) met with the Coalition for Auto Repair Equity (CARE) and the Automotive Aftermarket Industry Association (AAIA) in facilitated discussions to negotiate a non-legislative, self-regulatory program to re-enforce access to information and to establish a process to resolve complaints/disputes more quickly.

The parties met in 10 all-day negotiating sessions during the months of August and September; the Council of Better Business Bureaus, Inc. hosted the meetings. During the discussions it was clear that the vast majority of service information is readily available today. Our discussions eventually focused on a small subset of repair information used to service and reprogram vehicle security systems and immobilizers. Due to the sensitive nature of this type of information, automakers, locksmiths and independent repairers are already engaged in identifying and developing secure methods to share this information with automotive security professionals. The NASTF Vehicle Security Committee has been actively working on these complex issues for over a year.

In addition, automakers offered the following outline of possible steps to further improve the process of providing service/repair information:

1. Automakers would continue to make vehicle service information available to independent service technicians when they send it to all of their dealers. The outstanding security issues would be addressed through the NASTF vehicle security committee.
2. Automakers would continue to make service information, tools and tool information available for non-emissions repairs consistent with the EPA requirements for emissions repairs.
3. Automakers would provide prompt response to their website inquiries normally within 24 hours.

4. Automakers would agree to formalize and help fund the NASTF, which would then be able, to an even greater degree, to provide independent service technicians assistance in finding service information as well as serve as a clearing house to resolve repair information and tool access issues.
5. Automakers would participate in a binding dispute resolution program with enforceable remedies for non-compliance.

Unfortunately, at the very end of the discussions, CARE -- a lobby group funded entirely by the larger aftermarket parts manufacturing companies -- demanded effective control over the governance of the reconstituted NASTF. CARE's insistence on controlling at least 50 percent of a NASTF governing board would have significantly diminished the voices of the most important stakeholders in this issue; repair shops, diagnostic equipment makers, automakers and automotive trainers.

This development was particularly unfortunate because many of the issues that had been agreed to, or that were very close to agreement, would have enhanced the ability of independent service and repair owners to obtain the information and to resolve potential disputes over such information quickly and efficiently. In fact, agreements reached, or nearly reached, on these issues addressed concerns that exceed those contemplated by the legislation the proponents of H.R. 2048 seek to enact. On September 30, 2005, the discussions ended without reaching final agreement.

Although disappointed the talks could not be completed, the automakers, independent repair shops and technicians represented by ASA, the Equipment and Tool Institute, and automotive trainers continue to work toward:

- Further assurances that all service and training information necessary for vehicle repair and maintenance published and made available to dealers is also available to independents.
- Further assurances that tool information necessary to implement the same scan tool functions that dealers have is made available to diagnostic equipment manufacturers for inclusion in aftermarket scan tools
- Further improvements/formalization of the NASTF process that identifies gaps in service information and ensures that these gaps are quickly remedied.

Turning to the text of H.R. 2048, we continue to have concerns about the need for the legislation. Beyond that, we also have substantial concerns about the language of the legislation and at several points its apparent intent.

First, the findings of the legislation are unnecessarily harsh, factually inaccurate in many cases and unfair to the automakers that have made significant efforts to provide service information and tools to all independent automotive service providers. Automakers are committed to making service information and tools available and have been doing so for some

time. Although important issues were identified during our negotiations with the CARE Coalition, we did not hear allegations of any widespread breakdown of the systems established by automakers to resolve anomalous service information and tool gaps. For this reason, we strongly take issue with the statements in the “findings” section of the bill that concludes that automakers have systematically engaged in “a manner that has hindered open competition.” Since “anticompetitive behavior” is illegal under federal and state law, branding all automakers with this unfounded conclusion is both unreasonable and places them at legal risk.

Moreover, the findings address an issue that goes beyond the scope of the legislation: namely, whether consumers should always be able to choose between original parts and aftermarket parts for vehicle repairs. This issue quickly fell off the table during discussions and is not appropriate for the findings of this bill.

Second, the legislation is not precise in describing the scope of what is being sought by the proponents of the bill. For example, the language appears to confuse “information” with actual diagnostic “tools.” It also appears to override the standard and accepted practice of providing some service and training information to the independent service providers by means other than that used to communicate with dealers. The satellite networks and programs used to communicate with dealers cover a wide variety of topics and are not appropriate to be opened to independent repair facilities. However, hard copies of materials or CD-ROMs of the relevant portions of these broadcasts are often used to provide the relevant information on service/repair issues to independent facilities. EPA intentionally carved out this provision because automakers cannot be expected to build special delivery infrastructures for the aftermarket that they build for



their franchised dealers. The CARE Coalition has not otherwise sought access to the satellite-based information delivery system of the manufacturers, and this legislation should not force changes in the current practices.

As another example, the text would require making the “same diagnostic tools *and capabilities* related to vehicle repair” available to the independent service provider as are available to franchised dealers. We do not know what is intended by the word “capabilities” in this context. It could mean that manufacturers would have to grant access to their dealer “hot lines,” which are used to provide one-on-one diagnostic help to dealers who call for technical assistance. The CARE Coalition has assured us that they are not seeking access to these services, and the language should not leave this issue open.

We also believe that the language is broad enough that it might interfere with existing contracts between automakers and their franchised dealers, as well as with contracts automakers have with fleet purchasers that specify particular provisions regarding obtaining warranty and other service.

We also strongly object to the language in the bill that says that failure of a manufacturer to comply is automatically “an unfair method of competition and an unfair or deceptive act or practice in or affecting commerce” under the Federal Trade Commission Act. While automakers will always strive to comply with any FTC regulation, minor discrepancies should not give rise to an automatic pre-determination that they reflect the very serious charge of being “an unfair method of competition and an unfair or deceptive act or practice”. The FTC has ample authority

to decide when a regulatory violation constitutes “an unfair method of competition” or “an unfair or deceptive act or practice.”

In conclusion, The Alliance, AIAM, ASA and NADA and others continue to address the remaining service information issues and believe that legislation is not needed to further this process. In fact, attempts to legislate a federal overlay over the current process of providing information and attempting to resolve disputes may well undermine the successful resolution of the remaining outstanding issues.